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MONTANA STATE LEGISLATURE

MANUAL

FOR

COMMITTEE CHAIRPERSONS

AND VICE CHAIRPERSONS

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COMMITTEE CHAIRPERSON AND VICE CHAIRPERSON

MANUAL

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MONTANA STATE LEGISLATURE
COMMITTEE CHAIRPERSON AND VICE CHAIRPERSON
MANUAL
STANDING COMMITTEE PROCEDURES

I. COMMITTEES IN THE MONTANA LEGISLATURE

Although the committee system is not as powerful in the Montana Legislature as it is Congress, the committees perform essential functions in reviewing, analyzing, amending, and recommending that bills pass or do not pass. Because the committee system is the essence of the legislative process, legislators need to understand the workings and personnel of the committees and etiquette that prevails when a bill is the subject of a committee hearing.

II. RESPONSIBILITIES OF THE COMMITTEE CHAIR AND STAFF

A. COMMITTEE CHAIRPERSON

The chairperson is designated by the Speaker of the House or the Senate Committee on Committees, and, under the Joint Rules, has general control and direction of the hall and committee room.

The chairperson decides the scheduling of bill hearings and sets the agenda for each meeting and ground rules for hearings. For example, a chairperson may allocate 40 minutes for testimony to be divided equally between proponents and opponents. The chairperson always controls the floor during the committee discussion, and members speak only after recognition by the chairperson.

The committee chairperson must post for hearing the bills and/or resolutions assigned by the Speaker of the House or the President of the Senate. There are several considerations affecting the chairperson's scheduling decisions, and bill sponsors should be consulted regarding them. They include:

(1) Degree of controversy: A chairperson will try to schedule perhaps four or five bills on a day if they are expected to be relatively noncontroversial or to hear only one or two bills if sharp arguments are expected to develop at the hearing.

(2) Degree of complexity: A long or complicated bill may require all of the two hours a committee usually has for hearings, while a short and simple one, even if controversial, can usually be heard in a fraction of this time.

(3) Number of expected witnesses: If a large turnout is expected, a chairperson sometimes makes special arrangements for hearing the bill in a larger room, which may require a hearing to be held in the evening. Arrangements should be made through the Secretary of the Senate or the Chief Clerk of the House.

(4) Subject matter affinity: The leadership may request the scheduling of certain bills to facilitate work or to correspond to activity of the other house. Bills of a similar nature should, when possible, be heard at the same time in order to accommodate witnesses and to allow committee members to receive and better understand all the options at the same or consecutive sittings. In this regard, executive action on a bill may be held up until all bills of similar text can be heard, as the committee may have to choose between two bills.

The chairperson should ask the committee secretary to send notices of hearing to sponsors and to post the bills on the board. If possible, bills should be scheduled at least a week in advance. The rules currently require the public to be given three days notice of hearing in most cases.

The chairperson must be alert to stay on top of the workload and not let the chairperson's committee fall behind. Extra committee meeting may be necessary to keep the

schedule current. The chairperson should not, however, schedule more bills than can be heard at a meeting.

If a sponsor is unable to carry a bill in committee as scheduled, arrangements should be made for a substitute sponsor or the hearing rescheduled, being careful not to inconvenience witnesses who may have travelled great distances to testify.

To assure that bills reach the floor for action as soon as possible, executive action on bills should be taken as soon as necessary information and testimony has been provided to and considered by the committee.

B. COMMITTEE VICE CHAIRPERSON

The vice chairperson is also selected by the Speaker of the House or Senate Committee on Committees. The vice chairperson presides over meetings when the chairperson is absent. The vice chairperson usually presides over a hearing on a bill that the chairperson has sponsored and is presenting.

C. COMMITTEE SECRETARY

The secretary's duties include keeping minutes of meetings, registering witnesses who testify, recording committee votes, notifying bill sponsors of hearings, and typing committee reports and amendments. The secretary also maintains, for each member, a book containing a copy of each bill referred to the committee and a copy of each fiscal note prepared for those bills.

D. COMMITTEE STAFF PERSON

By tradition, an attorney or researcher from the Legislative Council staff is assigned to a committee by the Council Executive Director, with the concurrence of the committee chairperson. Exceptions to this rule are the Senate

Committee on Finance and Claims and the House Committee on Appropriations which are staffed by personnel of the Office of the Legislative Fiscal Analyst and the committees on Natural Resources which are staffed by personnel of the Environmental Quality Council. The staff person's duties include drafting amendments to bills under consideration by the committee, reviewing bills for technical or constitutional problems, and conducting research for subcommittees or individual members.

III. COMMITTEE OPERATION AND MANAGEMENT

After the committee is seated at the appointed hour, the chairperson should ask the secretary to call roll to determine that the necessary quorum is present. The chairperson may start a hearing before all members have arrived, and bills may be heard, but not acted upon, without a quorum. However, this practice should be discouraged. The chairperson may start a hearing before all members have arrived. (Under the rules, the Speaker, Majority Leader and Minority Leader are ex officio non-voting members of all House committees and if they are present they can make up a quorum.)

The secretary should be informed beforehand if certain members are excused.

Each person who wants to take a position on the bill should sign the witness sheet, usually located near committee entrance, and witnesses may submit prepared (written) testimony before the hearing starts. (The chair may need to announce this repeatedly.) Formalized rules for the committee operation shall be posted where everyone can see them and pointed out to the witnesses at the beginning of each meeting. A sample set of committee rules is attached to this manual.

At the start of the hearing it may be necessary to divide the available time so each bill may receive its fair share. The chairperson should ask the proponents and opponents how much time their

testimony will take, preferably before the hearing, and then announce how much time each side has and that the time limits will be enforced. The chairperson should not try to divide the time within the blocks set aside for each side. If one witness takes more time than is fair, others who share that position will be hurt.

After the sponsor "opens" with testimony, other proponents follow. Opponents then get equal time. "Neutral" testimony should not be allowed. Anyone testifying should be recorded as either a proponent or an opponent. If a person is neither a proponent nor an opponent, but tells the committee that the person will answer any questions, that should be considered appropriate.

After testimony by witnesses is completed, questioning of witnesses by committee members is permitted. Committee members must confine questions to the subject under consideration. Witnesses should confine their answers to responding to questions by members without "editorializing". Questions between witnesses are not allowed.

<u>All questions must go through the chairperson.</u>

Committee members must reserve questions among themselves for executive session. Committee members must not abuse witnesses, and abuse of members by witnesses is never tolerated.

After adequate questioning, the sponsor "closes", and no further questioning is allowed. An alternate procedure is to allow proponents to open, opponents to testify, then proponents close, after which questions by committee members take place. Either procedure is acceptable, but the former is preferable since it allows the sponsor to respond to issues raised during questioning. Executive action should be taken the same day as the hearing or as soon as possible thereafter. In some cases, extensive amendments are required, further consideration is needed, or delay is appropriate to coordinate with other bills or for legislative strategy.

Testimony by witnesses is not allowed during executive

session. Questioning of witnesses should be discouraged except in cases of extreme necessity and, if allowed, fairness for both sides must be considered.

If excused, members may be allowed to vote absentee by the method agreed upon by the chairperson and the committee. On many bills a preponderance of votes will be on one side of the question. The secretary should then be instructed to record only the minority votes and then the chairperson should announce, "Without objection, all other votes will be counted for the majority position." If it appears that the vote may be close, the secretary should be asked to call the roll in the order directed by the chair. The chairperson should immediately announce the vote in either case.

IV. WORK DONE IN COMMITTEE

A. HEARING WITNESSES

Opening a hearing on a bill, the chairperson recognizes the sponsor of the bill, who identifies himself or herself. The sponsor customarily speaks first and may introduce the constituent, lobbyist, or other person who has brought the bill or the problem to the sponsor's attention and who is present to testify. Other proponents of the bill are asked to identify themselves and present their statements. After all proponents have been heard, the chairperson will invite opponents, if any are present, to testify. When the opponents have finished, the chairperson may give the sponsor several minutes for rebuttal testimony. Committee members may question a witness either at the close of the witness's testimony or at the close of all testimony, depending on the chairperson's ground rules.

Each witness is requested by the secretary to sign a registration form, usually located near the committee entrance.

B. REVISING AND AMENDING BILLS

A committee member may ask a witness if a bill could be improved by an amendment that the member spells out. A bill is customarily changed by moving an amendment in the committee's executive session after the close of testimony. (Contrary to its commonly understood definition, "executive session" in the Montana legislative lexicon does not mean a closed or private session, which is prohibited by the Montana Constitution. A committee's executive session is open to observation by all persons, but only members may participate in the discussion unless a member receives the chairperson's permission to request another person to provide information.) The committee, in passing the motion, may instruct the committee staff person to draft the amendment in the proper form if uncertain of exact wording.

Amendments developed by a subcommittee are distributed to the full committee at an executive session. A subcommittee member usually moves the adoption of the subcommittee's recommendations following discussion of the subcommittee's report.

Information about preparing amendments is contained in the Bill Drafting Manual available from the Legislative Council.

V. ETIQUETTE FOR SPONSOR BEFORE COMMITTEE

The most elementary courtesy a sponsor can show a committee is to arrive promptly at the time the sponsor's bill is scheduled to be heard. If a sponsor cannot appear at a scheduled hearing on his or her bill, the sponsor should notify the chairperson of the committee as early as possible. A chairperson does not enjoy announcing the postponement of a hearing to a room full of people who have come to testify on that bill. A change of dates should be

posted several days in advance to avoid inconvenience, especially for travelling witnesses.

If a sponsor wishes to bring a number of people to speak as proponents, he or she should determine if their statements are similar and take steps to avoid repetitious testimony. A witness who would repeat a previous statement should give only the witness's name and address and state concurrence. The committee members will appreciate this.

A proponent or an opponent of a bill can be most effective before a committee by following the advice in Having Your Say Before Montana Legislative Committees, a pamphlet that may be obtained from the Legislative Council or at the Legislative Information Desk in the Rotunda.

A sponsor's etiquette may also be involved in special situations as follows:

A. WRITTEN STATEMENTS

If a sponsor or witness wishes to submit a written statement to the committee, it will be most effective if a copy is made for each member and each copy is punched to fit a three-ring binder, so each member may insert the statement into the member's bill book. A single copy, if submitted, will be preserved with the minutes by the secretary, but the individual members will not have the opportunity to study it.

B. GRAPHIC PRESENTATIONS

If equipment such as a blackboard, chalk, easel, slide projector, overhead projector, or screen is needed, the committee secretary should be notified the day before the hearing to make sure the necessary equipment is available.

VI. SUBCOMMITTEES

Difficult bills, at the option of the chairperson, may be assigned to a subcommittee, usually composed of 3-5 members,

appointed by the chairperson. First named is a subcommittee chairperson, and the majority party maintains a majority on the subcommittee. Subcommittees may schedule further hearings or work sessions on bills and develop amendments.

VII. PARLIAMENTARY PROCEDURE

To encourage full discussion, Mason's Rules allow less formal committee procedures than in floor action. Otherwise, parliamentary procedures apply. The chairperson and secretary should record motions carefully and dispose of them in an orderly fashion. The chairperson and members should carefully read the rule book regarding motions so they are familiar with procedures. Usually in committee, the only motions used are:

DO PASS - BE CONCURRED IN

DO NOT PASS - NOT BE CONCURRED IN

DO PASS AS AMENDED - BE CONCURRED IN AS AMENDED

DO NOT PASS AS AMENDED - NOT BE CONCURRED IN AS AMENDED

TABLE

POSTPONE ACTION

RECONSIDER ACTION

When appropriate, a substitute motion may be made to take any of these actions.

During the first day or two of a session, the chairperson, the secretary, and the researcher or attorney from the Legislative Council together should establish a working arrangement that will accomplish the chairperson's plans and let the staff understand their responsibilities. During the organizational meeting of the committee, the chairperson should advise the committee of the rules and make certain they are understood.

The chairperson should read the committee report carefully

before signing it to ensure that it accurately reflects the action of the committee.

The chairperson should be sure that fiscal notes accompany all bills that have fiscal impact. If a fiscal note is needed, the Speaker should be asked to request one.

Punctuality is essential to legislative efficiency. If necessary, the chairperson should admonish members for tardiness.

Special attention needs to be given to rulemaking authority, delegated to agencies by bills. Make certain a Statement of Intent is included when necessary, as they are required to accompany such bills.

A second to a motion is not necessary and has been discarded in recent years.

VIII. DISPOSING OF BILLS

After the hearing and executive session discussion, which may include consideration of amendments or subcommittee reports, a member will be recognized by the chairperson to make a motion to dispose of the bill or resolution.

For example:

"Mr./Madam Chairperson, I move that (House) (Senate) Bill No. ___ do (or do not) pass."

A member who disagrees with the original motion may make a substitute motion. For example: "As a substitute motion to the motion pending, I move to lay (House) (Senate) Bill No. ___ on the table."

However, no more than one substitute motion may be offered on top of the original motion.

Adequate discussion should be allowed before voting on each motion, and under rules of parliamentary procedure, the substitute motion offered is voted upon first. If that motion fails, the original motion is reverted to and voted upon. The chairperson may

announce that without objection the vote on a substitute motion is considered the reverse of the vote on the main motion if they are opposing motions. (It is possible but rare that a member, feeling that a bill should be further refined before a recommendation is made to the full body for "do pass" or "do not pass", would vote against both motions.)

IX. REPORTING ACTION TO FULL BODY

A committee or its majority may make one of four recommendations to its parent house. If the bill was introduced in the same body, the committee reports that the bill "do pass" or "do not pass". If the bill has been passed by the other house, the committee recommends that it "be concurred in" or "not be concurred in". "As amended" should be added in each of the four reports if amendments have been adopted by the committee. If there is a tie vote on a bill, the bill fails to pass.

Generally a bill is defeated in committee by virtue of a motion to table, which is not reported to the entire house. However, on some occasions, the committee will report a defeated bill to the entire house by a "do not pass" or "not be concurred in" motion.

The procedures of the Senate and House differ in cases where the committee report is controversial. In the Senate, a unanimous committee report is usually the end of the matter, but if a minority of the committee wishes to file a minority committee report, both reports (e.g., "do pass" and "do not pass") are placed before the body and debated under committee reports. In the House, only the prevailing position is posted and, if that position is "do not pass", according to the House Rules of the 52nd Legislature, 60% of members voting who object may place the issue on the second reading calendar and debate it.

Since neither a House nor a Senate sponsor can be on the floor of the other House to explain and carry the bill, arrangements should be made by the sponsor for a member of the other house to

carry the bill. When this is not done, the committee chairperson appoints a member to carry the bill. A committee member so designated should consult with the sponsor for background information so that the member can explain the bill on the floor. Additional information may be obtained from the committee staff person.

X. PROTECTING THE COMMITTEE

Conduct hearings and executive sessions in a way that respects members' time.

Don't allow witnesses to insult or degrade the committee, its individual members, or the bill sponsor. Committee members should also be prevented from abusing the public. In either situation the House Sergeant-at-Arms may be called to remove the offending individual.

Leave the committee room door open because the public is often intimidated by closed doors and should feel welcome. If the hall is too noisy, send someone out to quiet it.

Emphasize fairness; develop a committee reputation for fairness and firmness. Once established, most of the rest will happen naturally.

The chairperson should stringently enforce the established rules of procedure (including smoking or no-smoking policy in committee room). Noise must be kept under control in the hearing room.

The chairperson controls the hearing. Be firm but fair. Make witnesses feel at ease. Keep order. All questions must be addressed through the chairperson. Limit discussion; one committee member should not monopolize discussion or questions.

Require hearings to proceed promptly and in an orderly manner. Make sure both sides of the issue are fully covered. The

chairperson must avoid obvious bias. If the chairperson must be an advocate or opponent on a bill, the gavel should be turned over to the vice chairperson.

XI. CONFERENCE COMMITTEES

When the second house amends a bill, those amendments are returned to the sponsor's house for approval or rejection. Upon rejection of the amendments and passage of a motion to create a conference committee, the leadership appoints three Senators and three Representatives, usually from the committees that considered the bill, to be conferees to reconcile differences. Some conference committees meet with full formality. Toward the end of the session, when pressed for time, notice of meetings may be short because of difficulty in scheduling a formal meeting. In these cases, the sponsor (or a proponent of the bill) contacts the various conferees individually with the proposed compromise language.

Never take a defeatist attitude! Always think positively of yourselves and your committees as "Creative Problem Solvers."

COMMITTEE RULES OF PROCEDURE

A. Public Hearings

(1) Sponsor of the bill will open the presentation.

(2) Proponents of the bill will present testimony. Time subject to limitation of the chair.

(3) Opponents of the bill will present testimony. Time subject to limitation of the chair.

(4) All questions will be put forth by the committee. No questions will be directed between proponents and opponents. All questions will be directed through the chair, and everyone will be treated courteously.

(5) All discussion will commence at the direction of the chair.

(6) Sponsor of the bill will close the presentation.

(7) Proponents and opponents will try to state new points of testimony only. If they wish to agree with points already made, they should simply so state.

(8) Witnesses presenting testimony before the committee should remain in the room to answer any questions from committee members until the hearing is closed.

(9) All witnesses shall sign the witness sheet before presenting testimony.

(10) Written copies of the testimony should also be submitted if possible.

(11) Suggested amendments to bills must be presented to the committee in writing.

B. Executive Session

(1) Executive action may be taken the same day or later, but not until after all scheduled bills have been heard.

(2) Although executive sessions are open to the public, no comments may be made by anyone but committee members.

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